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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 SETH JAMES CURRAN,

9 Petitioner,

10 v.

11 JEFFREY A. UTTECHT,

12 Respondent.

CASE NO. C19-5381 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 18, Petitioner
15 Seth James Curran’s (“Curran”) objections to the R&R, Dkts. 19, 20, and Curran’s
16 motion to compel, Dkt. 21.

17 On July 31, 2019, Judge Christel issued the R&R recommending that the Court
18 dismiss Curran’s petition without prejudice for failure to exhaust. Dkt. 18. On August
19 11 and 14, 2019, Curran filed objections. Dkts. 19, 20. On August 27, 2019, Curran
20 filed a motion to compel. Dkt. 22.

21 The district judge must determine de novo any part of the magistrate judge’s
22 disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Curran contests the well-settled and binding precedent that he must
4 exhaust his state court remedies before seeking relief in a federal habeas petition. Dkt.
5 17. Curran's argument do not persuade the Court to carve out an exception to "one of the
6 pillars of federal habeas corpus jurisprudence." *Calderon v. U.S. Dist. Court for N. Dist.*
7 *of California*, 134 F.3d 981, 984 (9th Cir. 1998). Curran's motion to compel is similarly
8 frivolous. Therefore, the Court having considered the R&R, Curran's objections, and the
9 remaining record, does hereby find and order as follows:

- 10 (1) The R&R is **ADOPTED**;
- 11 (2) Curran's petition is **DISMISSED without prejudice**;
- 12 (3) Curran's motion to compel, Dkt. 21, is **DENIED**;
- 13 (4) A Certificate of Appealability is **DENIED**; and
- 14 (5) The Clerk shall enter a JUDGMENT and close the case.

15 Dated this 7th day of October, 2019.

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18 BENJAMIN H. SETTLE
19 United States District Judge
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